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Attorney for Defendant

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

UNITED STATES OF AMERICA,
Plaintiff,

v.

David ACOSTA-ROSALES,
Defendant.

Case Nos. 3:20-CR-478-IM-1

SENTENCING MEMORANDUM

David Acosta-Rosales asks this court to sentence him to a 40-month term of incarceration.

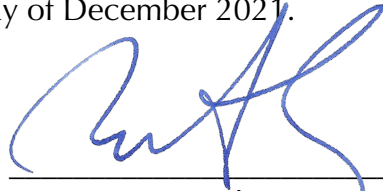
He is 51 years old and has generally lived a law-abiding and productive life up to his involvement in this offense, as described in the PSR and confidential supplement to the PSR.

Mr. Acosta is a long-term legal permanent resident in the United States, but because he is not a full citizen, he will most likely be deported. *See Jordan v. De George*, 341 US 223, 232 (1951) (Jackson, J., dissenting) (deportation is “a life sentence of banishment in addition to the punishment which a citizen would suffer from the identical acts”).

Because he is not a citizen, he will experience a longer term of imprisonment than someone who would not be deported; he is not eligible for release to a halfway-house nor

is he eligible for any reduction in his sentence pursuant to any participation in the RDAP drug/alcohol treatment program. *United States v. Gonzalez*, 365 F.3d 796, 799 (9th Cir. 2004) (“[C]onsideration of immigration status may be appropriate in some cases; however, it is not compelled.”), citing to *United States v. Davoudi*, 172 F.3d 1130, 1133-34 (9th Cir.1999) (district court has “legal discretion to depart downward because deportable aliens may be unable to take advantage of the up to six months [now potentially longer] of home confinement...”).

Respectfully submitted this 2nd day of December 2021.



Benjamin T. Andersen, OSB 06256